

Document No. 88
Adopted at Meeting of 1/13/60

EASEMENT AGREEMENT

for the West End Project Area

BOSTON REDEVELOPMENT AUTHORITY

AND

CHARLES RIVER PARK, INC.

AND

BOSTON EDISON COMPANY

This is an Agreement between the Boston Redevelopment Authority, hereinafter called the "Authority" and Charles River Park, Inc., hereinafter called the "Redeveloper", and the Boston Edison Company, hereinafter called the "Company", relative to the granting by the Authority to the Company of certain rights and easements through land in the West End Project Area and the consent thereto by the Redeveloper.

WHEREAS, on December 10, 1959, a Leasehold Agreement (hereinafter called the "Instrument") was entered into between the Authority and the Redeveloper, by the terms of which the Authority, for consideration stated therein, agreed to lease to the Redeveloper certain lands in the West End Project Area for a term of 50 years, and

WHEREAS, the rights and easements to which this Easement Agreement relate pertain to said lands, and

WHEREAS, under the terms of the Instrument, and the Redevelopment Plan for the project area then in effect, the Redeveloper would have the right to grant all easements through the leased property, subject to the underlying fee simple estate of the Authority, for such consideration as might be agreed upon between the Redeveloper and the grantee of the easement, and

WHEREAS, it is now desired to grant said rights and easements prior to the time when possession of all affected lands will be vested in the Redeveloper, and without recomputation of the lease rentals to be paid by the Redeveloper due to the decreased interest to be leased to him and the consequent diminution in value of the leasehold estate, but rather that consideration for the rights and easements shall pass directly from the Company to the Redeveloper subject to the terms and conditions hereinafter set forth:

NOW THEREFORE, the parties hereto agree as follows:

- (1) The said rights and easements shall be granted to the Company by the Authority at such time as they shall mutually agree upon.

(2) Such rights and easements shall be for a term of forty-seven (47) years from its grant and shall be the rights and easements to repair, replace, renew and maintain the steam lines of said Boston Edison Company now located in the project area, such rights and easements to be granted as shown on a plan attached hereto entitled "Plan Showing Boston Edison Company's Steam Lines in West End Redevelopment Area", dated November 6, 1959, which rights and easements shall be granted by an instrument in writing, conveying a good and clear title thereto.

(3) Said rights and easements shall be the rights

(a) to repair, replace, renew and maintain the steam lines of the Boston Edison Company now located under the surfaces of Allen Street, Spring Street, Leverett Street, Minot Street, and Surface Road, formerly public ways in Boston within the limits of a strip of land for the most part six (6) feet in width but of greater width not to exceed ten feet in the vicinity of the manholes shown on the plan hereinbefore mentioned, together with the necessary manholes and other appurtenances;

(b) to utilize during the actual work incident to such repair, replacement, renewal and maintenance the necessary adjacent open areas outside the said strip of land;

(c) to use said steam lines to supply steam service to customers of the Boston Edison Company;

(d) to enter upon said areas set forth in 3 (a) and 3(b) from time to time for all of the foregoing purposes and for the purpose of inspecting said lines and other equipment;

(e) said rights to enter to be limited to foot passage except to enter open areas with motor vehicles when necessary to operate, repair, replace, renew or maintain the lines and manholes;

(f) The center line of said steam lines and the side lines of said strip of land are shown in black on a plan entitled, "Plan of Boston Edison Company's Steam Lines in West End Redevelopment Area", dated November 6, 1959, to be recorded and registered herewith, a copy of which is attached hereto.

(4) (a) Such easements shall provide that the Redeveloper shall have the right in the course of its execution of the Redevelopment Plan to build on and in land through which such steam lines run, provided that structures be designed so as to provide the Boston Edison Company with reasonable access to such steam lines for the purposes herein set forth.

(b) The Boston Edison Company shall insulate its steam lines as may reasonably be required to permit the normal and safe use of the basement space wherein the steam lines may be located in a structure built by the Redeveloper.

(c) The Boston Edison Company shall maintain the said steam lines in good repair and condition so that the same shall not be a nuisance or cause any harm to the buildings or occupants on the said

project area. The Boston Edison Company shall conform to all requirements of the Boston Building Code, Building Commissioner, Fire Commissioner or other state or municipal agencies or acts or laws relative to steam lines.

(d) The Boston Edison Company shall at all times restore the premises to substantially the condition said premises were in prior to the Boston Edison Company, its agents or employees, entering upon said project area and/or the undertaking of any acts upon the said premises.

(e) The Boston Edison Company agrees to landscape any manhole cover which does not fall within a public highway or within the confines of a building.

(f) The Boston Edison Company will hold the Authority and the Redeveloper, their successors, assigns, or tenants, harmless from any tax, personal, excise or real estate, which may be levied upon them or their tenants because of the location of said steam lines on said premises, it being expressly understood and agreed that the title to said steam lines will remain in the Boston Edison Company and that the same will be considered the personal property of said Company.

(g) It is stipulated that said easements do not traverse or affect Parcel 1A shown on a plan entitled "Land Disposition Plan", dated June 16, 1959.

(h) It is stipulated that said easements do traverse Delivery Parcel 1D on a plan entitled "Land Disposition Plan", dated June 16, 1959, for a distance of about fifteen to twenty-five feet, more or less, and six feet wide between the end of the cul-de-sac and Delivery Parcel 1C and further for a distance of about fifteen feet more or less and for about a depth of two feet, more or less, inside the street line of the proposed cul-de-sac at a twenty foot radius of a reverse curve on the east side of the cul-de-sac.

(5) The Boston Edison Company shall indemnify and hold harmless the Authority and the Redeveloper, their assignees, employees or tenants, from any and all injury, loss or damage to persons or property arising, directly or indirectly in connection with the maintenance of such steam lines, repairs and replacements thereto or removal therefrom, excepting loss or damage resulting from the negligence of the Authority or the Redeveloper, their assignees, employees, or tenants.

(6) It is agreed that the cost of recording and registration of said easements and plan, together with the cost of necessary revenue stamps, shall be borne by the Boston Edison Company.

(7) Said rights and easements affect the following land court parcels registered to said Boston Redevelopment Authority under the following certificates of title, filed in the Suffolk Registry District as hereinafter indicated:

Certificate No. 64231, Book 317, Page 31,	17 Spring Street
Certificate No. 64719, Book 319, Page 119,	96 Leverett Street
Certificate No. 65933, Book 325, Page 133,	123 Leverett Street
Certificate No. 64230, Book 317, Page 30,	5 Minot Street
Certificate No. 64234, Book 317, Page 34,	12 Minot Street
Certificate No. 64523, Book 318, Page 123,	10 Minot Street
Certificate No. 66008, Book 326, Page 8,	6 Spring Street
Certificate No. 66085, Book 326, Page 85,	13 Minot Street

(8) The Redeveloper hereby assents to the terms of this Agreement and agrees to join in the grant of such rights and easements, and in consideration for which the Company agrees to pay at the time of the grant of same into an escrow fund which shall be established with the First National Bank of Boston, Massachusetts, the sum of Forty-Three Thousand Eight Hundred (\$43,800.00) Dollars, said sum to be paid to the Redeveloper or its assignees upon written notice from the Authority to the Bank, as follows:

(a) Upon the completion by the Redeveloper of the installation of the lateral wiring from the streets or public ways to the electrical vault in -

(1) the first residential delivery parcel as described in the instrument, the Redeveloper shall be paid out of said escrow fund twenty per cent (20%) of said fund;

(2) the second residential delivery parcel as described in the instrument, the Redeveloper shall be paid out of the balance of said escrow fund twenty-five per cent (25%) of said balance;

(3) the third residential delivery parcel as described in the instrument, the Redeveloper shall be paid out of the balance of said escrow fund thirty-three and one-third per cent ($33 \frac{1}{3}\%$) of said balance;

(4) the fourth residential delivery parcel as described in the instrument, the Redeveloper shall be paid out of the balance of said escrow fund fifty per cent (50%) of said balance;

(5) the fifth residential delivery parcel as described in the instrument, the Redeveloper shall be paid the balance of said escrow fund.

(b) In the event the Redeveloper's rights under the instrument are for any reason terminated as to one or more residential delivery parcels, any balance in said escrow fund applicable, on the basis of the schedule set forth in subsection (a) hereof, to such parcels as to which such rights have been terminated, shall be paid forthwith to the Authority.

(c) Interest on said escrow fund shall be accumulated and distributed as above, provided that all costs of administering said escrow fund shall be paid from said fund.

(9) This Agreement is subject to the concurrence of the Housing and Home Finance Agency of the United States of America.

(10) In construing this Agreement, words and phrases shall have the same meaning as are ascribed to them by Article I of the Instrument.

IN WITNESS WHEREOF, on *February 11, 1960*, at Boston, Massachusetts, the parties have caused this instrument and four additional counterparts to be signed, sealed, and delivered, the Boston Redevelopment Authority acting by its Chairman,

hereunto duly authorized and Charles River Park, Inc., acting by its Vice President, hereunto duly authorized and Boston Edison Company, acting by its Vice President, hereunto duly authorized.

The undersigned hereby certifies as **BOSTON REDEVELOPMENT AUTHORITY**

Witness:

Koussimian

Secretary

By:

Joseph W. Lund
Joseph W. Lund, Chairman

CHARLES RIVER PARK, INC.

Witness:

Rudolph Kan

BY:

Jerome Lyle Rappaport
Jerome Lyle Rappaport, Vice President

BOSTON EDISON COMPANY

Witness:

Mildred Frances Thite

James M. Carroll

BY:

Charles F. Avila
Charles F. Avila, Vice President

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

February 11, 1960

Then personally appeared the above named Joseph W. Lund and acknowledged the foregoing instrument to be the free act and deed of the Boston Redevelopment Authority, before me,

Thomas F. Hanley

Notary Public

My commission expires: March 10, 1962

Then personally appeared the above named Jerome Lyle Rappaport and acknowledged the foregoing instrument to be the free act and deed of Charles River Park, Inc., before me,

Maria P. Romano

Notary Public

My commission expires: Aug 20, 1966

Then personally appeared the above named Charles F. Avila and acknowledged the foregoing instrument to be the free act and deed of Boston Edison Company, before me,

Mildred Frances Thite

Notary Public

My commission expires: January 12, 1963

CERTIFICATE OF VOTE

The undersigned hereby certifies as follows:

(1) That he is the duly qualified and acting Secretary of the Boston Redevelopment Authority, hereinafter called the "Authority", and the keeper of the records, including the journal of proceedings of the Authority.

(2) That the following vote is a true and correct copy of the vote as finally adopted at a meeting of the Authority on the thirteenth day of January, 1960, and duly recorded in this office:

VOTED: that a tri-party agreement between the Boston Edison Company, Boston Redevelopment Authority and Charles River Park, Inc. with respect to granting of an easement for the Edison steam lines through the project land by the Authority be executed, subject to the approval of the Housing & Home Finance Agency with respect to price, length of time and other conditions, and further, that the Chairman be authorized to execute the same, contingent on the approval of the Housing & Home Finance Agency; and further, that the Chairman be authorized to grant the easement in accordance with the tri-party agreement, contingent on Housing & Home Finance Agency approval.

(3) That said meeting was duly convened and held in all respects in accordance with the law and to the extent required by law due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting, and a legally sufficient number of members of the Authority voted in the proper manner and all other requirements and proceedings under law incident to the proper adoption or the passage of said vote have been duly fulfilled, carried out and otherwise observed.

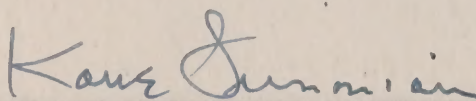
(4) That the form of Agreement presented to the said meeting was an exact copy of the Agreement to which the within certificate is attached.

(5) That if an impression of the seal has been affixed below, it constitutes the official seal of the Boston Redevelopment Authority and this certificate is hereby executed under such official seal.

(6) That Joseph W. Lund is the Chairman of said Authority.

(7) That the undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF the undersigned has hereunto set his hand this
24th day of February, 1960.


Kane Simonian, Secretary

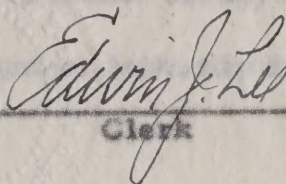
(LS)

I, Edwin J. Lee, Clerk of Boston Edison Company, hereby certify that at a special meeting of the Board of Directors, duly called and held on September 14, 1937, a quorum being present and acting, the following vote, which is still in effect, was adopted:

VOTED: That the President, any Vice President, or the Treasurer be and he hereby is authorized and empowered to execute in the name and behalf of the Company, and under its seal if execution under seal is required, and to deliver any and all agreements, contracts, bonds of indemnity and other documents which may be necessary in the conduct of the Company's business and in the opinion of counsel do not require special authorization by the Board of Directors.

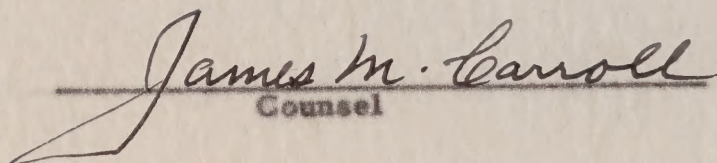
And I further certify that at the date hereof Charles F. Avila is a duly elected and qualified Vice President of said Company.

Dated: February //, 1960


Clerk

I, the undersigned Counsel of Boston Edison Company, am of the opinion that the Easement Agreement between Boston Redevelopment Authority and Charles River Park, Inc. and Boston Edison Company, dated February //, 1960, to which this opinion is attached, does not require special authorization of its Board of Directors under their vote dated September 14, 1937.

Dated: February //, 1960.


Counsel

CERTIFICATE

I, Kane Simonian, Executive Director and Secretary of the Boston Redevelopment Authority, certify that the attached "Easement Agreement for the West End Project Area", among Boston Redevelopment Authority, Charles River Park, Inc., and Boston Edison Company, is a true and correct copy of an Agreement entered into on the 11th day of February, 1960, by Boston Redevelopment Authority, Charles River Park, Inc., and Boston Edison Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Boston Redevelopment Authority this 24th day of February, 1960.

BOSTON REDEVELOPMENT AUTHORITY

Kane Simonian

Kane Simonian, Secretary

WITNESS:

J. Hanna T. Varian

(LS)

CERTIFICATE AND OPINION OF COUNSEL

I, Thomas F. Hanley, Assistant Counsel for the Boston Redevelopment Authority certify that I have examined the original of an Easement Agreement entered into on the 24th day of February, 1960, by Boston Redevelopment Authority, Charles River Park, Inc., and Boston Edison Company.

It is my opinion that said agreement:

- 1) has been duly executed by the parties thereto and duly delivered;
- 2) is valid and binding in all respects in accordance with its terms;
- 3) is legally enforceable.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of February, 1960.

BOSTON REDEVELOPMENT AUTHORITY

Thomas F. Hanley

Thomas F. Hanley, Assistant Counsel

WITNESS:

Anna L. D'Amico

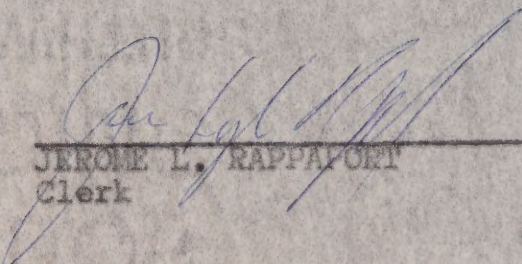
CHARLES RIVER PARK, INC.
CERTIFICATE OF CORPORATE VOTE

I, JEROME L. RAPPAPORT, certify that I am the duly elected Clerk of Charles River Park, Inc. and I further certify that at a special meeting of the Board of Directors of that corporation, duly called and held January 13, 1960, at which a majority of the directors were present and voting, the Board of Directors voted as follows:

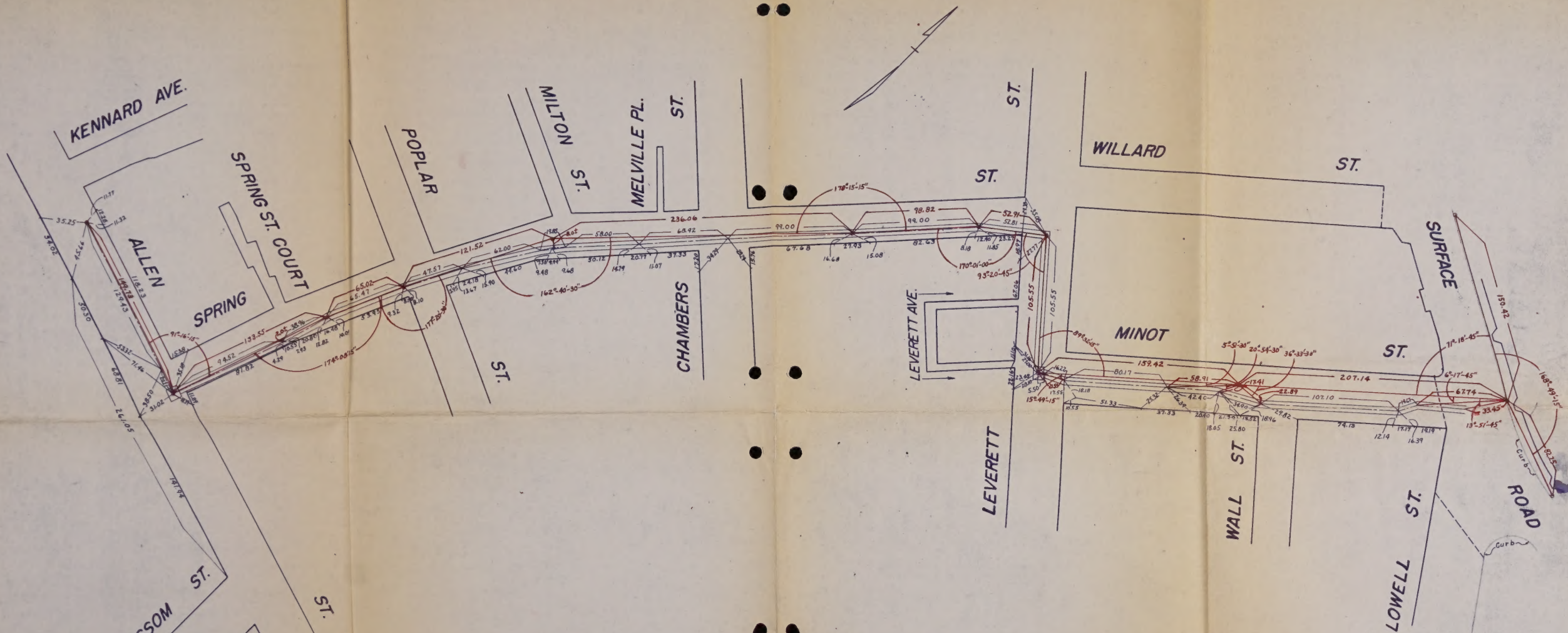
VOTED: That the president or a vice-president of this corporation is hereby authorized to execute on behalf of this corporation an agreement whereby this corporation concurs in the grant of certain rights and easements by the Boston Redevelopment Authority to the Boston Edison Company in land which this corporation has agreed to lease from the Boston Redevelopment Authority.

I further certify that Jerome L. Rappaport is a duly elected vice-president of Charles River Park, Inc. and that the foregoing resolution is in full force and effect as of the date of this certificate.

In Witness Whereof, I set my hand hereto this February 19, 1960.



JEROME L. RAPPAPORT
Clerk



PLAN SHOWING
BOSTON EDISON COMPANY'S
STEAM LINES
IN
WEST END REDEVELOPMENT AREA

Scale: 1 in. = 40 ft.

Nov. 6, 1959

NOTE:-

Red = Traverse Line
Black = Steam & 6' Easement Lines